

ZEITZ & STEIN, L.L.C.
ATTORNEYS AT LAW
201 Barclay Pavilion West
Cherry Hill, New Jersey 08034
(856) 857-1222 • fax (856) 857-1234

Gary C. Zeitz □
Robert W. Stein □
Robin I. London-Zeitz □
□ Also Admitted in Pennsylvania

Pennsylvania Office:
217 Ryers Avenue
Cheltenham, PA 19012
(215) 379-1444
(215) 379-1992 fax

July 1, 2009

Honorable Patty Schwartz, U.S.M.J.
United States District Court, District of New Jersey
U.S. Post Office & Courthouse Bldg.
Federal Square, Room 10
Newark, NJ 07101

***RE: Beach Creek Marina, Inc. v. Royal Tax Lien Service, LLC, et al.
Civil Action No. 09-2649/KSH***

Royal Tax Liens Services, LLC's request for leave to file motion to dismiss

Dear Judge Schwartz:

This office serves as counsel to Royal Tax Lien Services, LLC (“Royal”) with respect to the above referenced matter. I am writing this letter to request leave to file a motion to dismiss in the within case pursuant to F.R.C.P. 12(b). My office has also filed a application for extension of time to file an answer to the Complaint pursuant to L.Civ.R. 6.1(b).

The within case concerns real estate taxes assessed by the City of North Wildwood against real property owned by the plaintiff, Beach Creek Marina, Inc. (“Beach Creek”). Beach Creek failed to pay said real estate taxes and the resulting delinquencies were subsequently sold by the City of North Wildwood to Royal at a public tax sale auction. The real estate taxes in question are for the years 2006 through 2009. Beach Creek previously filed a tax appeal in the Superior Court of New Jersey as to the 2006 real estate taxes. The 2006 tax appeal was dismissed by the Tax Court on March 10, 2008. On May 18, 2009 an order was entered by the Superior Court of New Jersey, Appellate Division upholding the Tax Court’s dismissal of the 2006 tax appeal. Beach Creek also filed tax appeals of its 2007, 2008 and 2009 real estate tax assessments. The 2007, 2008 and 2009 tax appeals are currently pending in the Tax Court of the Superior Court of New Jersey under docket numbers 1843-2007, 3414-2008 and 7566-2009. I have been advised by counsel for the City of North Wildwood that trial dates for the 2007 and 2008 tax appeals are set for October 6 and October 8, 2009.

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The appropriate and only remedy available to Beach Creek with respect to the real estate tax assessments in question is to file a tax appeal with the Superior Court of New Jersey. Failure to file for an appeal is a critical failure and removes any jurisdiction of the Courts to review the assessment after the limitations period has passed. City of Newark v. Block 322, Lots 38 and 40, 17 N.J.Tax 103 (Tax Ct. 1997). Consequently, Royal intends to file a motion to dismiss Beach Creek's complaint for failure to state a claim upon which relief can be granted. In addition, as a result of the prior order of the Superior Court of New Jersey, Appellate Division validating the 2006 taxes against Beach Creek's real estate and the pending tax appeals for 2007, 2008 and 2009 the within case should be dismissed for lack of jurisdiction. Furthermore, Beach Creek failed to join the City of North Wildwood, an indispensable party, whom was the primary actor in causing the assessments to be made thus justifying the dismissal of the within case. Thus, in an effort to preserve judicial resources, Royal respectfully requests that it be granted leave to file a motion to dismiss in this matter.

Thank you for your kind consideration of this matter.

Respectfully yours,

ROBIN LONDON-ZEITZ

RLZ/mbp
Enclosures
cc: Royal Tax Lien Service, LLC
Ronald T. Nagle, Esquire
Maeve E. Cannon, Esquire